

# **EXHIBIT 11**

David Lombardo  
October 03, 2022

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NEW YORK

\* \* \*

STAR AUTO SALES OF BAYSIDE :  
INC., (d/b/a STAR TOYOTA : CASE NO.  
OF BAYSIDE), STAR AUTO SALES: 18-cv-05775 (ERK) (TAM)  
OF QUEENS, LLC, (d/b/a :  
STAR SUBARU) STAR HYUNDAI, :  
LLC, (d/b/a STAR HYUNDAI :  
LLC), STAR NISSAN, INC., :  
(d/b/a STAR NISSAN)), METRO :  
CHRYSLER PLYMOUTH, INC. :  
(d/b/a STAR CHRYSLER JEEP :  
DODGE), STAR AUTO SALES OF :  
QUEENS COUNTY, LLC, (d/b/a :  
STAR FIAT) and STAR AUTO :  
SALES OF QUEENS VILLAGE, LLC: :  
(d/b/a STAR MITSUBISHI), :  
Plaintiffs :

vs. :

VOYNOW, BAYARD, WHYTE AND :  
COMPANY, LLP, HUGH WHYTE :  
and RANDALL FRANZEN, :  
Defendants :

\* \* \*

Videotape deposition of DAVID LOMBARDO, held  
at the offices of U.S. LEGAL SUPPORT, 1818 Market  
Street, 14th Floor, Philadelphia, Pennsylvania 19103,  
beginning at 10:54 a.m., on Monday, October 3, 2022,  
before Alice T. Mattes, Court Reporter and Notary  
Public, there being present:

\* \* \*

U.S. LEGAL SUPPORT  
Northeast Processing Center  
1818 Market Street, Suite 1400  
Philadelphia, Pennsylvania 19103  
(877) 479-2484

David Lombardo  
October 03, 2022

1 Q 90 percent, you'd say, during your time?

2 A Um-hmm.

3 Q Okay. Generally did Voynow hold itself out  
4 as an accounting specialist in the auto industry?

5 MS. FITZGERALD: Objection.

6 BY MR. LABUDA:

7 Q You can answer.

8 A Yes.

9 Q And how would you -- how would you say that  
10 Voynow held themselves out as accounting specialists  
11 in the auto industry?

12 Like was that through conversations  
13 that supervisors had with clients? Would that be  
14 through advertising? Anything else?

15 A Yeah, I would say conversations. I  
16 think our website even acknowledged that.

17 When I say "our website" Voynow's  
18 website.

19 Q Voynow, right.

20 And when you worked at various auto  
21 dealers, let's specifically talk about auto  
22 dealerships, at -- when you worked at Voynow, what  
23 would be the types of things that you would be doing  
24 there at auto dealerships in general?

25 A It would depend on the engagement.

David Lombardo  
October 03, 2022

1                   Would that be from a supervisor  
2     saying, hey, look, we're here to do tax work or  
3     we're here to do X, you know, type of work?

4           A           Yeah. I mean, it would be talked  
5     about.

6     Q           Okay.

7           A           Sometimes I was involved in like  
8     preparing the engagement letter, but not all the  
9     time.

10    Q           Okay.

11                   All right. So let me ask you  
12    generally, 'cause I think you kind of talked about  
13    three buckets of services; tax services, financial  
14    statements, and interim reviews. Is that accurate?

15                   MS. FITZGERALD: Objection.

16    BY MR. LABUDA:

17    Q           You can answer. Sorry.

18           A           Interim visits.

19    Q           Interim visits, okay.

20           A           That's what we called them.

21    Q           All right. So with respect to let's say tax  
22    services, and let's talk specifically about  
23    dealerships. What is the scope of work that's  
24    involved and the type of work that's done with  
25    respect to a client who has engaged Voynow to

1 perform tax services?

2 A Towards the end of the year, I would  
3 say starting in November and December, we'd go out  
4 for tax planning visits. And then shortly after the  
5 beginning of the year I guess we'd finish up a lot  
6 of the tax work.

7 Q All right. And what would that -- what  
8 would that entail in terms of the actual work that  
9 you would be performing with respect to tax services  
10 for an auto client?

11 A Just going through the trial balance,  
12 reviewing account balances. Writing off any  
13 uncollectible receivables. Adjusting prepaids. You  
14 kind of primarily focus on the balance sheet.

15 Q All right. And approximately how many times  
16 would you visit a client who was requesting tax  
17 services? How many times a year would you go?

18 A Times a year, I would say twice.

19 Q Okay. You said --

20 A Yeah, tax planning before the end of  
21 the year and then after the year to wrap up  
22 everything.

23 Q Okay. So right. Once before the tax year  
24 ends, assuming I guess fiscal year ending on  
25 December 31st of the year.

David Lombardo  
October 03, 2022

1 A Correct.

2 Q All right. And then once --

3 A Most of our clients were calendar.

4 Q Right. Okay. And then once after the year  
5 is over to finalize the returns?

6 A Correct.

7 Q Okay.

8 A And each of those time periods could  
9 have been a couple days, depending on the size of  
10 the client.

11 Q Okay.

12 A You know, a smaller dealership might  
13 just be one day for each. Llargers could be two or  
14 three days.

15 Q Okay. But, generally, your understanding is  
16 that and experience at Voynow was that a client who  
17 had requested tax services Voynow would go there  
18 twice, twice per year, once before the year ends,  
19 and then once before the taxes are actually filed.

20 A Correct.

21 Q Okay. Would there be any -- do you have any  
22 recollection of a client who was requesting just tax  
23 services where that you would go to three or four  
24 times a year?

25 A Not for tax services, no.

David Lombardo  
2546  
October 03, 2022

1 Q And what about in -- what about visits in  
2 let's say the summer, or anything like that, would  
3 that -- do you have any recollection of going to a  
4 Voynow client for tax services in the middle of the  
5 summer?

6 A No.

7 Yeah, summer is kind of like our  
8 down season. So we typically did a lot of interim  
9 or management visits then.

10 Q Okay. And what is -- I just want to get  
11 into some of these items that you had mentioned with  
12 respect to the tax services.

13 Trial balance, can you explain what  
14 you would do with respect to I guess reviewing the  
15 trial balance. Is that the right term?

16 A Yeah. We would take balance sheet  
17 accounts and their primary focus was on the balance  
18 sheet accounts and just cleaning things up and  
19 occasionally some income statement accounts you  
20 would tie out.

21 Q Okay. And what type of work would be  
22 involved in the account balances that you had  
23 referenced?

24 A Could you rephrase that.

25 Q So I believe that in your earlier testimony

David Lombardo  
October 03, 2022

1 have followup work in the later months after tax  
2 season.

3 Q Okay.

4 A Other times it would be completed,  
5 you know, before the end of tax season as well.

6 Q Okay. And then you had also said that  
7 Voynow provided interim visits or management visits  
8 to customers as well?

9 A Correct.

10 Q Okay. And so what does an interim or  
11 management visit entail?

12 A We would go out there and review the  
13 books and records, their internal controls, and we  
14 would issue a letter, you know, stating what we had  
15 found.

16 Q And when you said reviewing the books and  
17 records, what would that actually entail?

18 A Looking at bank recs, receivables,  
19 payables, prepaids, making sure various  
20 reconciliations were completed.

21 Q All right. When you did interim visits  
22 would you look at all the schedules for the  
23 particular dealership?

24 A Yes. Or at least most of 'em.

25 Q Okay. And you had said you also did



1 internal controls. What would that be?

2 A The various reconciliations, bank  
3 reconciliations, the parts statement rec. Prepaid  
4 calculations. Insure that they're reviewing the  
5 aged receivables and payables regularly.

6 Q And then you had said that Voynow would then  
7 issue a letter to the client?

8 A Correct.

9 Q Okay. And what would -- what would that  
10 letter entail? What was in that letter?

11 A Um. It would be a letter addressed  
12 to the client just stating what we had found.

13 Q Okay. So it's the findings --

14 A Completed and reviewed. Yeah.

15 Q Okay. The findings from the interim visit  
16 or management visit. Right?

17 A Correct.

18 Q Now, with respect to the -- oh. Let me ask  
19 you one other question.

20 So and if Voynow was engaged in  
21 providing interim visits how often would Voynow go  
22 to the client site on an annual basis?

23 A Well, it would be every time we did  
24 an interim visit or management visit. And it would  
25 vary on client. You know, some clients wanted us to

David Lombardo  
October 03, 2022

1       come out more, some less.

2       Q           Okay. What would the range be in terms of  
3       times?

4               A           I would say up to four times per  
5       year. That would probably be the max.

6       Q           Okay. And the minimum?

7               A           Once.

8       Q           One time, okay.

9                       And just so I understand, would  
10       there be clients that would request all three of  
11       these types of services from Voynow, the tax  
12       services, the financial statements, and the interim  
13       visits?

14               A           Yes.

15       Q           Okay.

16               A           And, you know, like sometimes it was  
17       also used as like negotiations. Like if you were  
18       just preparing tax returns for a particular client,  
19       you know, sometimes they'd throw in like an added  
20       service as part of the negotiations.

21       Q           Okay.

22                       And would there be times where a  
23       client would engage Voynow to provide two out of the  
24       three services, engagements?

25                       MS. FITZGERALD: Object to form.

David Lombardo  
October 03, 2022

1 Q Correct? Okay.

2 You wouldn't make special trips for  
3 tax services vis-a-vis financial statements.

4 Correct?

5 A Could you repeat that.

6 Q Well, so you said that for the tax services  
7 Voynow would generally go twice a year. Correct?

8 A Correct.

9 Q Okay. With the financial statements it was  
10 also twice a year. Correct?

11 A Correct.

12 Q If a client asked Voynow to go -- to perform  
13 tax services and financial statements they wouldn't  
14 necessarily go four times a year.

15 A No.

16 Q Right? Okay.

17 They would double up, do the tax  
18 services and the financial statements --

19 A Yeah, we do --

20 Q -- all at once?

21 A -- a lot of the same work at the same  
22 time. Yeah.

23 Q Right. Okay.

24 And in terms of timing of the  
25 interim visits, was there any specific time that

David Lombardo  
October 03, 2022

1 those would generally take place at Voynow?

2 A During our slower months.

3 Q And when is that?

4 A Typically your summer months. Maybe  
5 into the fall.

6 \* \* \*

7 (Pause.)

8 \* \* \*

9 BY MR. LABUDA:

10 Q Bear with me one second.

11 \* \* \*

12 (Pause.)

13 \* \* \*

14 THE WITNESS: Would it be okay to take  
15 a break for coffee?

16 MR. LABUDA: Sure. Sure, absolutely.

17 THE VIDEOGRAPHER: Going off the  
18 record at 11:35.

19 \* \* \*

20 (Whereupon, a short break was taken.)

21 \* \* \*

22 THE VIDEOGRAPHER: And we're back on  
23 the record at 11:40.

24 BY MR. LABUDA:

25 Q All right. With respect to financial

David Lombardo  
October 03, 2022

1 controls.

2 Q Okay. Would you be reviewing let's say the  
3 bank statement for the accuracy of it?

4 MS. FITZGERALD: Objection.

5 THE WITNESS: Correct.

6 BY MR. LABUDA:

7 Q Okay. And as part of looking for the  
8 accuracy would you also look for like inaccuracies  
9 or anomalies or things that were just what you  
10 thought were not...

11 A Yeah, occasionally something would  
12 pop up and, you know, we would ask more questions  
13 about it. Anything that seemed unusual.

14 Q Okay. And that was true with the schedules  
15 that you would review as part of the interim visits?

16 A Yeah. It really depends on what type  
17 of account you're looking at. Like if you're  
18 looking at bank reconciliations, you would, number  
19 one, verify it's being done on a regular basis, look  
20 for like aged deposits in transit, outstanding  
21 checks, if anything seems abnormal there.

22 Q Okay. And then as part of the interim visit  
23 if you saw that something was abnormal, that would  
24 be something that would be further investigated?

25 A Yeah.

David Lombardo  
October 03, 2022

1 Q Correct? Okay.

2 And how was that -- how was that  
3 investigation done like at Voynow when you were --  
4 when you were there? Like would there be things  
5 that did pop up that were out of the ordinary?

6 MS. FITZGERALD: We're talking just  
7 general. Right?

8 MR. LABUDA: General. Yeah. Not at  
9 Star.

10 MS. FITZGERALD: Got it.

11 MR. LABUDA: Yeah.

12 MS. FITZGERALD: Just to make sure  
13 it's clear.

14 MR. LABUDA: Right.

15 THE WITNESS: I'm sorry, could you  
16 repeat the question.

17 BY MR. LABUDA:

18 Q So, yes. So how was it that these anomalies  
19 or things that, you know, just didn't seem normal to  
20 you get further investigated at Voynow when you were  
21 there?

22 Like what was the process? Would  
23 you --

24 A You would ask for -- ask different  
25 questions, ask for support, follow up with somebody

David Lombardo  
October 03, 2022

1 else, if necessary.

2 Q Okay.

3 \* \* \*

4 (Pause.)

5 \* \* \*

6 MR. LABUDA: Could you just repeat  
7 that last answer. Sorry.

8 \* \* \*

9 (Whereupon, the Court Reporter  
10 read from the record.)

11 \* \* \*

12 BY MR. LABUDA:

13 Q Okay. And when you say "support" you would  
14 mean like documentation, like backup to establish  
15 that this is an accurate transaction.

16 Is that right?

17 A Correct.

18 Q Okay.

19 A And, you know, you might use  
20 different procedures based on the account.

21 Q Okay.

22 And with respect to tax services,  
23 what would be the purpose for providing tax services  
24 to a customer? Is that to provide the actual tax  
25 returns for --

David Lombardo  
October 03, 2022

1 A Yeah.

2 Q -- for the client?

3 A Yeah, the clients with IRS.

4 Q And what was the purpose behind providing  
5 financial statements? What was the goal there, the  
6 reason for providing financial statements?

7 A You know, sometimes it was required  
8 by the bank for floor plan financing or a particular  
9 loan. Occasionally some clients requested it for  
10 their own internal purposes.

11 Q And then what was the purpose for providing  
12 interim visits?

13 A By client request. Give 'em a level  
14 of comfort that everything's being reconciled and  
15 handled appropriately during the year.

16 Even when we do our tax work, you  
17 know, that's primarily, yeah, November through  
18 March. You know, you kind of want to see what's  
19 being done throughout the year. Some clients are  
20 interested in that.

21 Q Okay. As an accountant providing interim  
22 visits was one of your jobs to look for anomalies  
23 during these interim visits?

24 A Yeah.

25 Q And the anomalies could be as innocuous as



David Lombardo  
October 03, 2022

1 professional competence. Correct?

2 A Yes.

3 Q Okay. Due professional care as well.

4 Correct?

5 A Correct.

6 Q Planning and supervision. Correct?

7 A Correct.

8 Q And obtaining sufficient relevant data to

9 provide its services?

10 A Yes.

11 \* \* \*

12 (Pause.)

13 \* \* \*

14 BY MR. LABUDA:

15 Q And did...

16 Were there ever times that in your  
17 opinion Voynow failed to meet those standards?

18 MS. FITZGERALD: Objection.

19 THE WITNESS: I'd have to think about  
20 that one.

21 BY MR. LABUDA:

22 Q Okay. All right, we can table it for now.

23 With respect to the interim visits,  
24 in terms of issuing a letter, would you actually be  
25 involved in the drafting of the letters to clients?

David Lombardo  
October 03, 2022

1           A           Yes.

2           Q           Okay. And what was your role with respect  
3 to that aspect?

4           A           It would depend on the client. But,  
5 you know, typically we would go out there. They  
6 would divvy up the different balance sheet accounts.  
7 Everybody was kind of responsible for their own  
8 section. And then at the end of the -- at the end  
9 of the visit you would go back to the office and  
10 type everything up for your own individual section.  
11 And then everybody would provide their -- their own  
12 pieces to the secretary, who would then combine them  
13 into a letter.

14          Q           Okay. And in terms of providing the pieces  
15 to the secretary, how was that done? Was that done  
16 by e-mail? Was that through a typed report, a  
17 handwritten report, something else?

18          A           I don't specifically recall. But I  
19 would imagine it was done either by saving it on a  
20 specific place on the network or by e-mail.

21          Q           All right. And, again, as part of the  
22 interim visits when you talked about reviewing bank  
23 recs, that was to check for outstanding deposits.

24                      Is that correct?

25          A           Just really completeness. But, you

David Lombardo  
October 03, 2022

1 know, that would be an example of completeness.

2 Q Okay. And when you would put in your  
3 portion of the interim letter for the client, what  
4 is it that you would include in your report?

5 A I guess you would just state what you  
6 had found. You know, anything that you thought was  
7 unusual you would note in there.

8 Q Okay. And what if there was nothing  
9 unusual, would that also be noted that it all  
10 checked out and that the balances seemed accurate  
11 and there didn't seem to be any --

12 A I would note if I didn't find  
13 anything odd or unusual.

14 Q Okay.

15 \* \* \*

16 (Pause.)

17 \* \* \*

18 MR. LABUDA: All right. I should have  
19 done this earlier. I'm sorry.

20 Let's have this marked as Exhibit 16.

21 \* \* \*

22 (Whereupon, the above-mentioned  
23 document was marked for identification  
24 as Exhibit 16.)

25 \* \* \*

David Lombardo  
October 03, 2022

1 talks about the fact that the threat of theft and  
2 financial misstatements is especially high if a  
3 store lacks formal regularly reviewed internal  
4 controls.

5 Do you see that?

6 A Yeah.

7 Q Okay. And that's what you were referring to  
8 again before in terms of interim visits, that one of  
9 the functions of performing interim visits is to  
10 provide these internal controls. Correct?

11 A I wouldn't say that's our primary  
12 goal when we do the interim visits.

13 Q Okay. And it seems from this -- from this  
14 paragraph here that the primary purpose of doing the  
15 interim controls is to prevent any type of theft or  
16 financial misstatement.

17 Would you agree with that?

18 MS. FITZGERALD: Objection.

19 THE WITNESS: Yeah. That would be the  
20 purpose of internal controls.

21 BY MR. LABUDA:

22 Q Okay.

23 MR. LABUDA: Steve, if you can mute,  
24 that would be helpful.

25 MR. RAMBAM: It was muted, I thought.

1                   As part of your -- with respect to  
2                   the different services, would those be listed in an  
3                   engagement letter that Voynow provided to the  
4                   client?

5                   A           Yeah. Each of those types of  
6                   services should have an engagement letter.

7                   Q           Okay. And to your understanding did the  
8                   engagement letters specify what level or what type  
9                   of service Voynow was providing to a client?

10                  A           Yes.

11                  Q           Did you have any internal discussions at  
12                  Voynow about engagement letters in general?

13                  A           We didn't put too much of an emphasis  
14                  on those.

15                  Q           Okay. Were there any conversations about  
16                  engagement letters with respect to interim visits?

17                  A           I do remember shortly before I had  
18                  left our quality control person Ken Mann suggested  
19                  engagement letters for everything, including interim  
20                  visits. And, you know, a lot of people -- a lot of  
21                  the partners just didn't want to do that. They  
22                  didn't want to issue a separate engagement letter  
23                  just for interim visits.

24                  Q           Okay. So if I'm understanding correctly,  
25                  there would be an engagement letter with respect to

David Lombardo  
October 03, 2022

1           A           No formal training for Voynow. When  
2           I had started it was in the middle of tax season,  
3           you know, a lot of my training kind of came from the  
4           clients.

5           Q           Okay.

6                       What about taking continuing like  
7           accounting education courses? Did you have to do  
8           that when you were at Voynow?

9           A           Yes, we did. A lot of times we did  
10          that as a firm as well.

11          Q           Okay. You'd have like a webinar or  
12          something like that? Somebody would come in and  
13          provide some type of training on a particular  
14          accounting issue?

15          A           Yes. Or we would go out to, you  
16          know, some sort of seminar.

17          Q           Did Voynow ever provide any type of written  
18          guides to you in terms of how to conduct or perform  
19          these interim visits for clients?

20          A           No.

21          Q           During your time at Voynow do you believe  
22          you developed a good understanding of how to review  
23          the books and records of a dealership?

24          A           I would agree with that, yes.

25          Q           And how is it that you would identify any

David Lombardo  
October 03, 2022

1 type of anomaly or irregularity that you saw? Like  
2 what would be some of the things that you would be  
3 looking for in terms of schedules or bank recs or  
4 anything like that?

5 MS. FITZGERALD: Object to form.

6 THE WITNESS: I guess from experience  
7 you kind of know what to look for. You  
8 know, maybe materiality based on how much a  
9 certain figure was --

10 BY MR. LABUDA:

11 Q Okay.

12 A -- you know, might determine how much  
13 you look into it.

14 Q Okay. Now, in the Exhibit 16 that we had  
15 looked at before, there was a term, we didn't talk  
16 about it, but they used the term "red flag".

17 Have you ever heard that term  
18 before?

19 A Yes.

20 Q Okay. And is a red flag some type of  
21 anomaly or irregularity to the books and records?

22 A Correct.

23 Q Okay. And so can you just list some things  
24 that you would at least consider to be red flags  
25 when you're reviewing books and records with respect

David Lombardo  
October 03, 2022

1 supervisor or an owner for their review and editing  
2 before it was sent out to the client?

3 A I would say it would go to the  
4 partner for review and editing.

5 Q Okay. And with respect to the reports that  
6 you provided and included in your reports, would you  
7 also include recommendations, if necessary?

8 A Sometimes, yeah.

9 \* \* \*

10 (Pause.)

11 \* \* \*

12 BY MR. LABUDA:

13 Q All right. Now, you had mentioned that one  
14 of the dealerships that you worked on at Voynow was  
15 Star. Correct?

16 A Correct.

17 Q Okay. And do you have any recollection of  
18 when it was that you worked on the -- on the Star  
19 dealerships?

20 A I couldn't give you specifics on  
21 that.

22 Q And do you remember doing any particular  
23 work -- well, withdrawn.

24 What type of engagement did Voynow  
25 have with respect to Star?



David Lombardo  
October 03, 2022

1 Kerbeck?

2 A The Kerbeck Group. Yeah, all three  
3 types of services.

4 Q And with respect to other coworkers, did you  
5 ever work with John Breslin on Star?

6 A I'm debating whether I was out there  
7 with him or not.

8 Q Do you know whether or not he performed any  
9 services for Star?

10 A I know he did at some point, yes.

11 Q Okay. You just may not have overlapped with  
12 him.

13 A Correct.

14 Q Okay. And what about Mike Corrigan?

15 A I don't recall.

16 Q Okay. And do you have any recollection in  
17 terms of which specific dealerships you worked on  
18 for Star? So, for example, Star Toyota, Star  
19 Chrysler, Star Nissan.

20 A I wouldn't know, no.

21 Oh, it was all of 'em.

22 Q All of 'em?

23 A (Witness nods head.)

24 Q Okay. So if you did -- if you were looking  
25 at schedules you would look at the same schedule for

David Lombardo  
October 03, 2022

1 each --

2 A Correct.

3 Q Okay.

4 All right. I'm going to show you  
5 what's been marked as --

6 MR. LABUDA: Or let's have this marked  
7 as Exhibit 28.

8 \* \* \*

9 (Whereupon, the above-mentioned  
10 document was marked for identification  
11 as Exhibit 28.)

12 \* \* \*

13 MS. FITZGERALD: Off the record.

14 \* \* \*

15 (Whereupon, a brief off-the-record  
16 discussion was held.)

17 \* \* \*

18 BY MR. LABUDA:

19 Q I'm going to show you what's been marked as  
20 Exhibit 28. If you could take a look at this and  
21 let me know when you've had a chance to review.

22 A (Witness reading.)

23 Okay.

24 Q Okay. So, now, this is a document. The  
25 first page states Star Chrysler Jeep Dodge Schedule

David Lombardo  
October 03, 2022

1 File Report. Correct?

2 A Correct.

3 Q Okay. And have you seen documents like this  
4 before in terms of doing interim reports? Or  
5 interim --

6 A Yes.

7 Q -- reviews. I'm sorry.

8 A Yes.

9 Q Interim visits.

10 A I call it the schedule of schedules.

11 Q Okay. Right. So this is a schedule of all  
12 of the different schedules at Star.

13 A (Witness nods head.)

14 Q And this was printed out by Voynow in the  
15 upper left-hand corner on January 26th, 2012.

16 Is that correct?

17 A That's what it says.

18 Q Okay. Voynow had access to the Reynolds  
19 System. Correct?

20 A Yes.

21 Q Okay. And --

22 A Some dealerships would set us up with  
23 a username.

24 Q Right. And Reynolds generally would  
25 identify who was actually printing out a particular

David Lombardo  
October 03, 2022

1 MR. LABUDA: Yeah.

2 MS. FITZGERALD: All right.

3 THE WITNESS: I mean, I wouldn't be  
4 assigned all these accounts.

5 BY MR. LABUDA:

6 Q Correct. But these would be ones that you  
7 and the other -- and your coworkers from Voynow  
8 would review.

9 A Correct.

10 Q Okay.

11 A Some of those, though, like we  
12 wouldn't necessarily take a look at.

13 Q Okay. So there are some schedules that are  
14 more significant or more important than others.

15 Is that fair to say?

16 A Yeah.

17 Q Okay. So with respect to some of the more  
18 significant schedules, would those include the  
19 number five, Accounts Receivable?

20 A Definitely.

21 Q Number six, Employee Advances?

22 A Definitely.

23 Q Number seven, Car Deals?

24 A Yep. Yes.

25 Q Number 13, Finance Reserves?

David Lombardo  
October 03, 2022

1 dealership.

2 Q Okay. So those would be -- do you have any  
3 recollection of pulling any of these specific  
4 schedules at Star?

5 A I don't recall that, no.

6 Q Okay. But these would be ones that you  
7 would generally look at -- the ones that we  
8 highlighted, those would be the main ones that would  
9 be looked at at any car dealership?

10 A Yeah.

11 Q Okay.

12 A I mean, I would say typically we  
13 would look at the inventory schedules as well.

14 Q Okay, inventory schedule.

15 A New/used.

16 Q Where is that one?

17 A On the first page. It would be nine  
18 and eleven. It looks like the eleven got cut off  
19 there.

20 Q Okay. Right. Yeah, nine and eleven.

21 Okay. Any other ones in your mind  
22 that would be looked at?

23 A I would say the ones that we both had  
24 mentioned would be the main ones.

25 Q Okay. And on the second page it's got some

David Lombardo  
October 03, 2022

1 Voynow had with Star?

2 A No.

3 Q When you were at Voynow do you have any  
4 understanding directly or indirectly of how many  
5 times Voynow would go to Star's offices to conduct  
6 these interim visits?

7 A It was multiple times a year. But I  
8 couldn't give you a specific number.

9 Q Okay. And do you have any recollection  
10 personally in terms of what time of year you would  
11 go up there?

12 A I remember a number of times it was  
13 in the summer, because it'd be hot out.

14 Q Okay. And do you have any understanding,  
15 again, directly or indirectly, of Voynow employees  
16 doing any inventory checks, like counting cars or  
17 parts or things like that?

18 A Never with parts. You know, we  
19 wouldn't count parts. But, you know, we would  
20 review service repair orders, and we'd also verify  
21 that the vehicle is still there. As long as there  
22 was an amount owed.

23 Q That's with respect to a service repair  
24 order. So if there was an amount owed that it  
25 shouldn't be leaving the shop until it gets paid?

David Lombardo  
October 03, 2022

1 A Correct.

2 Q Okay.

3 A And sometimes that would happen. But  
4 there was -- that would require that, you know, a  
5 specific reason.

6 Q Okay. And that was part of the internal  
7 controls, just making sure that if you do the  
8 service you'd better get paid before you actually  
9 provide --

10 A Yeah.

11 Q -- the vehicle back to the customer.

12 A Yeah, you don't want to release the  
13 vehicle before it's been paid for.

14 Q Right.

15 A But you had asked if we had counted  
16 like inventory. Like, no, I don't believe we ever  
17 really counted all the vehicles or anything.

18 Q Okay.

19 A You know, a lot of times that's  
20 covered by your floor plan audits done by the bank.

21 Q Right. So the bank might do that directly.

22 A Yeah.

23 Q Okay. But you have no recollection of doing  
24 the like car inventories yourself?

25 A Not specifically, no.

David Lombardo  
October 03, 2022

1 Q All right.

2 At Star did you perform any type of  
3 factory part reconciliations?

4 A Well, we wouldn't perform the  
5 reconciliations.

6 Q Okay.

7 A But that's one of the reconciliations  
8 we would check on.

9 Q Okay. That you would look at the schedule  
10 involving the reconciliation or the report?

11 A Yeah.

12 Q Okay.

13 A We would commonly refer to it as a  
14 parts rec.

15 Q Okay. Would you involve Star in reviewing  
16 credit card receivables?

17 A No. Was that a separate account?

18 Q I would think so, yes.

19 A Yeah.

20 Q What about reviewing service and parts  
21 receivables?

22 A Definitely, yep.

23 Q Cash sales and journal entries?

24 A No. I don't recall doing it  
25 personally, but I could see somebody else doing it.



David Lombardo  
October 03, 2022

1 Q Okay. Bank reconciliations?

2 A Absolutely.

3 Q Okay. Was there a process that Voynow  
4 recommended that dealerships follow in terms of how  
5 often to reconcile the bank statements?

6 A Monthly.

7 Q And if a client was not reconciling on a  
8 monthly basis, would that be a red flag --

9 A That would be an --

10 Q -- that would be identified?

11 A -- internal control deficiency, yes.

12 Q Okay. And then that would get -- you would  
13 raise that with -- let's say with respect to a bank  
14 reconciliation not being done on monthly basis.  
15 What would be the process to identify that anomaly  
16 that, you know, I guess, breakdown in the internal  
17 controls?

18 Like, again, would you raise that  
19 with the dealership directly, or would that be  
20 something that you'd raise with Voynow internally?

21 A Both. And, you know, I would also  
22 note it inside the interim letter so the owners  
23 would be aware as well.

24 Q Okay.

25 Now, one of your purposes for

David Lombardo  
October 03, 2022

1 reviewing these schedules for Star was to detect  
2 fraud or theft. Is that fair?

3 MS. FITZGERALD: Objection.

4 THE WITNESS: I would say it's to test  
5 internal controls.

6 BY MR. LABUDA:

7 Q Okay. Well and --

8 MS. FITZGERALD: My only objection is  
9 I think he's testified that he didn't look  
10 at all of these schedules. And I think your  
11 question had that -- inferred that he was.  
12 So I would just like to --

13 MR. LABUDA: Yeah, I'm not -- yeah,  
14 I'm not suggesting -- I mean, I think the  
15 witness has said he didn't necessarily look  
16 at the schedules, all of the schedules. But  
17 I'm talking about the ones that you would  
18 review, for starters.

19 MS. FITZGERALD: Have we established  
20 that?

21 MR. LABUDA: I think he's  
22 identified -- he's indicated that there were  
23 schedules that he did review at Star. I  
24 mean, let's ask him.

25 BY MR. LABUDA:

David Lombardo  
October 03, 2022

1 Q You did review schedules when you worked at  
2 Star. Correct?

3 A Yes.

4 Q Yeah. Okay.

5 MS. FITZGERALD: Do you remember which  
6 ones you reviewed?

7 THE WITNESS: I know parts and  
8 service, I know I looked at that. I mean,  
9 there were others.

10 Most of our work is like looking at  
11 schedules, and that's how you do the  
12 interim visit. It's not limited to  
13 schedules. You know, like a bank  
14 reconciliation wouldn't be a schedule, but  
15 you would have to look at schedules for  
16 different things.

17 BY MR. LABUDA:

18 Q Right. And so you're saying -- let's say,  
19 for example, looking at parts and service schedules,  
20 you would look at those for proper internal controls  
21 within that particular schedule. Correct?

22 A Yeah. And, you know, internal  
23 control deficiencies could lead to, you know, fraud  
24 or misstatement.

25 Q Right. Right.

David Lombardo  
2575  
October 03, 2022

1                   And that was -- that was your role  
2     in terms of reviewing the parts and service  
3     schedule, was to look for these type of --

4           A           Internal controls.

5     Q           -- type of anomalies. Right?

6           A           Yeah.

7     Q           Something that deviated from proper internal  
8     controls. Correct?

9           A           Correct.

10    Q           Do you have any recollection of raising any  
11    concerns about Star not having proper internal  
12    controls to anyone at Voynow?

13           A           Yes.

14    Q           Okay. And do you remember the context, like  
15    what schedule you were looking at or the particular  
16    issue?

17           A           It was a service and parts  
18    receivable. And it was Vivian's husband that was  
19    the service manager. And I noticed that they were  
20    related. And the dollar amount wasn't a whole lot.  
21    It was under \$10,000. But it was just the fact that  
22    he had this receivable -- you know, I assume he made  
23    a decent salary and, you know, like why would this  
24    receivable be on there aged over 90 days and it  
25    still wasn't paid for? I specifically remember that

David Lombardo  
October 03, 2022

1 instance.

2 Q Okay.

3 A And I remember questioning him about  
4 why it wasn't paid. And I remember him replying  
5 that, well, he could have just written it off, which  
6 I thought was extremely strange to say.

7 Q Who said that to you?

8 A Vivian's husband.

9 Q Oh, no. I'm saying, who said he could have  
10 written it off?

11 A Vivian's husband.

12 Q Oh, Vivian's husband. Okay.

13 A That was an item of -- you know, I  
14 was concerned with.

15 Q So if I'm --

16 A And I addressed that directly with  
17 Randy as well.

18 Q Okay. Right. That was my next question.

19 With respect to this service and  
20 parts receivable involving Vivian's husband, did  
21 you -- is it fair to say based on what you just said  
22 that you identified this as a potential issue with  
23 the internal controls? Correct?

24 A Yes.

25 Q Okay. And then is it also fair to say that

David Lombardo  
October 03, 2022

1 you spoke with the client in terms of speaking with  
2 Vivian's husband about why he had this aged  
3 receivable?

4 A Yes.

5 Q Right? Okay.

6 And his response was he could have  
7 written it off?

8 A Yeah.

9 Q Okay. Well, this is -- if I'm understanding  
10 correctly, this is money that was listed on the  
11 service parts receivable that he owed to Star.  
12 Correct?

13 A Correct.

14 Q Okay. When he said he could have written it  
15 off, did that raise any further issues with you?

16 A Yeah. I mean, you know, alarms were  
17 going off in my head. I mean, it's not a big dollar  
18 amount, but still, you know, it's a...

19 And then after that I learned that  
20 there was other family members that worked there,  
21 too, which that's extremely odd. You know, that's  
22 not something you really see. Normally, when you  
23 see family members working at a dealership like  
24 they're family members of the owners. Not family  
25 members of just employees.

David Lombardo  
October 03, 2022

1 A Not specifically.

2 Q Okay. Were there any issues that you  
3 remember generally in terms of Star?

4 A Nothing specific to Star, no.

5 Q Okay. Do you know whether or not there was  
6 any -- any further investigation done by Voynow on  
7 this particular issue you were raising with the  
8 parts and service receivable?

9 A I don't believe so. But I don't  
10 know.

11 Q Okay. Have you ever heard the term  
12 professional skepticism?

13 A Yes.

14 Q Okay. And what does that mean to you?

15 A Kind of trust but verify.

16 Q Okay. And do you believe that Voynow at all  
17 times exercised professional skepticism with respect  
18 to its interim visits at Star?

19 MS. FITZGERALD: Object to form.

20 THE WITNESS: I would not say all the  
21 time, no.

22 BY MR. LABUDA:

23 Q Okay. And why do you say no? Why would  
24 you --

25 A An example of the -- Vivian's husband

David Lombardo  
October 03, 2022

1 I kind of felt like it was kind of like dismissed  
2 and... I kind of feel like Randy didn't take that  
3 seriously.

4 Q Okay.

5 A Randy Franzen.

6 Q Okay. Now, in terms of like this trust and  
7 verify, did you believe it was Voynow's  
8 responsibility as their accountants to get an  
9 adequate answer and get proper backup for why there  
10 was this aged receivable by the controller's  
11 husband?

12 A Yeah. And I would also, you know,  
13 make the owners aware as well.

14 Q Okay.

15 A I feel that's important.

16 Q Do you have any other instances, generally  
17 speaking, of Mr. Franzen not exercising professional  
18 skepticism at Star or at other dealerships?

19 MS. FITZGERALD: Object to form.

20 THE WITNESS: I couldn't give you  
21 specific examples. But I would say over --  
22 over the period of my career there, yeah,  
23 there was a number of times where I felt  
24 like Randy didn't exercise that.

25 BY MR. LABUDA:



1 Q Okay. And can you give me one or two other  
2 examples. And if you know the dealership associated  
3 with it, that's fine. If not, that's fine as well.

4 A I can't think of anything  
5 specifically offhand.

6 Q Okay. We'll table that. And maybe at a  
7 break if you have time to think about it. But I'd  
8 be curious to see other examples that you think of  
9 that kind of form that conclusion.

10 A Okay.

11 Q Do you have any recollection about raising  
12 some type of concern about a lack of internal  
13 controls with anyone else, other than let's say  
14 Randy, with respect to the Star dealerships? So,  
15 for instance, Shawn McCormack or Bob Seibel.

16 A I'm sure we've casually brought it  
17 up.

18 Q Okay. You don't have any specific  
19 recollections with respect to Star and either with  
20 respect to conversations you had with Shawn or with  
21 Bob?

22 A Not specifically, no.

23 Q Okay.

24 Now, with respect to Exhibit 28  
25 here, would -- in terms of the schedule of schedules

David Lombardo  
2581  
October 03, 2022

1 that are listed here, would Voynow have access to  
2 all those different schedules as part of its interim  
3 visit?

4 A Access? Yeah. I believe so.

5 Q Okay.

6 A It's on here. I don't see why they  
7 wouldn't be able to print it.

8 Q Right. And then I think you said generally  
9 speaking what you and other Voynow employees would  
10 do would be to ask that a schedule be printed by  
11 someone at Star. Is that correct?

12 A Or I guess we could print it  
13 ourselves.

14 Q Okay.

15 A I don't recall the -- I don't recall  
16 that specifically at Star. But just that the -- you  
17 know, the username is Voynow. That was typically a  
18 username that was provided to us to print the  
19 schedules.

20 Q And do you have a recollection of how many  
21 times you went to Star when you worked at Voynow?

22 A I don't recall how many times. I  
23 would say it was three times or less.

24 Q And each time was to provide interim visits  
25 to review books and records and review internal

David Lombardo  
October 03, 2022

1 controls?

2 A Yes.

3 Q Any of the work that -- withdrawn.

4 Did you do any of the work that you  
5 performed for Star outside of Star's offices? So,  
6 for example, did you do -- take schedules and go  
7 back to Voynow, or anything like that?

8 A Yes.

9 Q Okay.

10 A Yeah, when we were out there we would  
11 kind of go through the schedules and the  
12 reconciliations. We would take a lot of notes, and  
13 then we'd go back to the office and formalize it.

14 Q Okay. And when you would go to Star how  
15 long would you be there for?

16 A All day.

17 Q Okay. Would it just be one day? Would it  
18 be multiple days that you were there?

19 A I believe it was just one day, but it  
20 could have been multiple days.

21 Q Okay.

22 A I specifically don't remember. I've  
23 never stayed overnight there, so. I was only there  
24 for one day.

25 Q Okay. And, generally speaking, when you

1           A           I'm sure multiple people at Star. I  
2           just -- the specifics I'm just not sure of.

3           Q           Okay. Any of the owners?

4           A           I think briefly for like a short  
5           discussion. But not really, no.

6           Q           Okay. With respect to the interim letters  
7           that got issued by Voynow to a client, would there  
8           be an interim letter that was sent out after every  
9           interim visit?

10          A           Yes. Yeah, that was kind of like  
11          your completed product.

12          Q           Right. Okay.

13                      When you were at Star did you ever  
14          interact with an employee by the name of Debbie  
15          Diacaris (ph)?

16          A           It sounds familiar. But I don't  
17          recall the specifics.

18          Q           Okay. Do you remember if Vivian had a  
19          sister that worked there?

20          A           I do recall that, yeah.

21          Q           Okay. And, again, with the fact that you  
22          have related parties there, would that be something  
23          that you would have raised internally with one of  
24          your supervisors as to the fact that you have --

25          A           Yeah.

David Lombardo  
2584  
October 03, 2022

1 MR. LABUDA: All right. Let's mark  
2 this as Exhibit 1.

3 And, Maureen, actually, we have --  
4 these are some from Randy that are -- not  
5 Randy's. Shawn's. So I'm just going to  
6 use the same one. That's kind of one of  
7 the reasons why we're doing it, so.

8 MS. FITZGERALD: Do you have copies?

9 MR. LABUDA: I have copies, yeah.  
10 Yeah.

11 MS. FITZGERALD: So it's been  
12 previously marked at Shawn McCormack's  
13 deposition.

14 MR. LABUDA: Yeah, this is previously  
15 marked. I didn't have copies with the  
16 actual like sticky on it. But this is one  
17 that was previously marked in this case as  
18 Exhibit 1.

19 MS. FITZGERALD: At Shawn McCormack's  
20 dep?

21 MR. LABUDA: Yeah. I don't know -- I  
22 don't think -- yeah, we'll just leave it --  
23 yeah, we'll just leave it the way it is.

24 And that was on March 22nd, 2022.

25 BY MR. LABUDA:

David Lombardo  
October 03, 2022

1 service.

2 BY MR. LABUDA:

3 Q Okay. And these would all be identified and  
4 sent to the client as items that were reviewed by  
5 Voynow and if there were particular anomalies or  
6 issues to raise those particular issues. Correct?

7 A Yeah. You would highlight those in  
8 the letter, yeah.

9 Q Okay. So, for example, with respect to...  
10 There's a section of Service and  
11 Parts Accounts Receivable on the second into the  
12 third page. Correct?

13 A From page two going onto page three,  
14 yeah.

15 Q Yes. Yeah.

16 And with respect to this it has  
17 various customers that owe money to Star and then  
18 how long they've owed money to Star. Correct?

19 A Yeah, it gives an aging. Yeah.

20 Q Yeah, the 61 to 90 days, 91 to 120, and 121  
21 plus. Correct?

22 A Correct.

23 Q Okay. And I know you had mentioned that  
24 before with respect to Vivian's husband. This would  
25 be something where you would have noted the fact

David Lombardo  
October 03, 2022

1 MS. FITZGERALD: Objection.

2 THE WITNESS: (Witness reading.)

3 Yeah, I would say the vast majority  
4 of those are things you would typically  
5 look at.

6 BY MR. LABUDA:

7 Q Okay. Let's put that one down. Let's look  
8 at Exhibit 5, what's been previously marked as  
9 Exhibit 5 from McCormack's deposition.

10 I'm going to show you what's been  
11 marked as Exhibit 5, and just take a look at that  
12 briefly. And I'll kind of focus your attention on a  
13 couple particular items.

14 A (Witness complies.)

15 Oh, this is like a billing  
16 work-in-process report.

17 Q Yes.

18 A Okay.

19 Q So like at the bottom -- this would be a  
20 typical billing summary from Voynow. Correct?

21 A It appears to be, yes.

22 Q Right. And at the top of it it has Group,  
23 Star. And it says Star Hyundai.

24 Do you see that at the top?

25 A Yes.

David Lombardo  
October 03, 2022

1 Q Okay. And let's say, for instance, with  
2 respect to at the bottom of it it has a Shawn  
3 McCormack. And then it says "INTSER Letters to  
4 Client, Prep".

5 Do you see that?

6 A Um-hmm.

7 Q Would that be with respect to these interim  
8 letters that would be sent to clients? Is that what  
9 it's referencing?

10 A I would assume so.

11 Q Yes. Okay.

12 A Interim services.

13 Q Okay. And then on the third page I think I  
14 see something as well. At the bottom of it it has  
15 the same thing, "INTSER Interim Visit Planning".

16 Do you see that?

17 A Um-hmm. I see it.

18 Q Let's see.

19 On the next page, which is 24607,  
20 there's a few references from David Kumor.

21 Do you see that in the middle of the  
22 page?

23 A Okay.

24 Q Do you know who David Kumor was?

25 A I'm familiar with him, yes.



David Lombardo  
October 03, 2022

1 Q Okay. He worked at Voynow?

2 A He did.

3 Q Okay. And the -- actually, I take that  
4 back.

5 Below David Kumor there's a couple  
6 specific entries for Mike Corrigan.

7 Do you see those? In the middle of  
8 the page. There's one that says "Business Trip to  
9 Queens".

10 A Yeah.

11 Q Okay. Those are -- those appear to be  
12 duties associated with performing an interim visit.  
13 Is that accurate?

14 MS. FITZGERALD: Objection.

15 THE WITNESS: Yes.

16 BY MR. LABUDA:

17 Q Okay.

18 A Yeah, where you see "RO's", that's  
19 for repair orders.

20 Q Okay.

21 A We never reviewed repair orders for  
22 tax work. That was something we did at interims.

23 Q Okay. Now, I see also, as you mentioned  
24 before, a lot of this, the interim reports were done  
25 over the summer. These two entries are July 24th,

David Lombardo  
October 03, 2022

1 2013 and August 5th, 2013. Correct?

2 A Um-hmm.

3 Q Okay. And that would typically be the time,  
4 one of the times that you would be doing interim  
5 reports. Correct?

6 A Correct.

7 Q Interim visits. I'm sorry. Correct?

8 A Correct.

9 Q Okay. And not associated with any type of  
10 tax work. Correct?

11 A I don't believe so.

12 Q Okay. If you flip a few more pages.

13 A Yeah, even on like -- you know,  
14 looking at Mike Corrigan on August 5th, you know,  
15 letter editing the mistakes, evaluating the letter,  
16 like, you know, you could tell right there that's  
17 interim letters.

18 Q Okay. Right.

19 \* \* \*

20 (Pause.)

21 \* \* \*

22 BY MR. LABUDA:

23 Q Okay. Yeah, so if you flip a few other  
24 pages in there's -- it's actually towards the end,  
25 second-to-last page, 24690. There's a couple

David Lombardo  
2590  
October 03, 2022

1 entries for you. And it has Dave Lombardo in the  
2 middle of the page. Like October it looks like  
3 2010. October 31st, 2010. It says engagement  
4 planning. Do you see that?

5 A Um-hmm.

6 Q And the client visit, interim letter,  
7 interim letter. I guess the interim letter, that's  
8 referring to, you know -- is it fair to say that  
9 that is referring to time that you spent preparing  
10 your portion of what was to be an interim letter to  
11 the client?

12 A Yes. But I'd just like to note like  
13 due to the time, like I only put one hour there, I  
14 would imagine that had something to do with like  
15 corrections or.

16 Q Okay. Right. That wouldn't be the time  
17 that you would actually spend doing your portion of  
18 a report. You wouldn't be able to do it in an hour.  
19 Correct?

20 A Correct.

21 Q Right.

22 A Yeah. Much more time than that.

23 Q Right. And then it says, client visit.  
24 That would be the time that you were actually at the  
25 client site?